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ORGANIZATION OF THE WORK OF THE SESSION

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Letter dated 12 April 1996 from the Permanent Mission of Indonesia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit herewith the observations and comments* by the Government of Indonesia on documents E/CN.4/1996/112 and E/CN.4/1996/103, of 14 and 18 March 1996, pertaining to the visit of the High Commissioner for Human Rights to Indonesia, from 3 to 7 December 1995.

I should be most grateful if the aforementioned memorandum could be circulated as a document at the fifty-second session of the Commission on Human Rights, under agenda items 3 and 21.

* The annex is being circulated in the language of submission only.

GE.96-12709 (E)

Annex

OBSERVATIONS BY INDONESIA ON THE REPORT OF THE VISIT OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS TO INDONESIA AND EAST TIMOR FROM 3 TO 7 DECEMBER 1995

I. GENERAL COMMENTS

1. The Government of Indonesia highly values the visit of the High Commissioner for Human Rights as one of the means to promote cooperation between the Government of Indonesia and the United Nations in the field of human rights.

2. During his visit, the High Commissioner met a large number of high-ranking Government officials, including the President of the Republic of Indonesia himself, and many other personalities. This appears to have rendered somewhat difficult the process of preparing and presenting a compact report, as was ideally intended. Some of the discussions are recorded but others have been left out. The most important fact of this visit was that the High Commissioner for Human Rights was accorded full freedom to meet everyone he wished.

3. In general, the draft report is not overly critical. Nevertheless, it goes without saying that, for a report to be credible, it must entail a modicum of objectivity and balance as its foundation. Moreover, in discharging his mandate, the High Commissioner for Human Rights must be guided by principles of objectivity, impartiality and non-selectivity, as stipulated in General Assembly resolution 48/141. In this regard, it is worth mentioning that the High Commissioner himself, at the joint press briefing in Jakarta on 7 December 1995, clearly stressed that: "I will certainly be permanently and absolutely objective in my way of judging situations or presenting facts".

4. As may be recalled, during his visit, the High Commissioner for Human Rights reached an agreement with the Government of Indonesia on some matters that are of great importance. On the other hand, the High Commissioner also made some proposals that so far have remained merely proposals and have yet to be pursued further, as no agreement was reached. The Government of Indonesia is of the view that the existing reports fail to reflect this circumstance fully.

5. The Government of Indonesia deems it necessary and legitimate to make the following observations and comments on the reports in a spirit of cooperation.

II. SPECIFIC COMMENTS

Mandate of the High Commissioner for Human Rights

6. In conformity with General Assembly resolution 48/141, the thrust of the mandate of the High Commissioner for Human Rights is to pursue dialogue and promote cooperation with the Governments of Member States in the promotion and protection of human rights. This vividly demonstrates that this mandate is clearly and distinctly different from those of other United Nations human rights mechanisms and bodies, which are entrusted with purely monitoring

tasks. To inject a new idea whereby part of the dialogue between the High Commissioner for Human Rights and the Member States consists of following up on the recommendations made by United Nations human rights mechanisms is a notion which, if not rejected, will compromise the mandate of the High Commissioner and in turn undermine his credibility.

United Nations human rights presence

7. The Indonesian Foreign Minister, during the sixth round of tripartite meetings under the auspices of the Secretary-General, has apprised the Secretary-General of the developments in the province of East Timor as well as of the visit of the High Commissioner for Human Rights to Indonesia. The aide-mémoire the Indonesian delegation presented to the meeting, among others, stated that:

> "It is particularly important to note that, at the end of his five-day visit, the High Commissioner and the Indonesian Minister for Foreign Affairs arrived at several principles of agreement in the effort to enhance cooperation in the field of human rights between the Government of the Republic of Indonesia and the High Commissioner's Office and other United Nations human rights mechanisms. In this context, both parties agreed, inter alia, to follow up the current 'memorandum of intent'. It was also provisionally agreed to look into the possibility of the High Commissioner assigning a programme officer at the United Nations office in Jakarta in order to follow up on the technical cooperation between the High Commissioner and the Government of Indonesia."

8. The above-mentioned quotation should make it clear that the intent of the Government of Indonesia is to utilize the technical cooperation and advisory services of the United Nations and not to seek some kind of "human rights presence", which is factually related to crisis situations such as for example in Rwanda, Burundi or the former Yugoslavia. The fact that there are cases of human rights abuses in Indonesia is very much understood and well taken. However, the Government of Indonesia does not believe that the situation of human rights there warrants the establishment of a "United Nations human rights presence" or of "field operation".

9. The Government of Indonesia has never made any commitment nor has it agreed to the possibility of establishing "a United Nations human rights presence" in the country in the first place. Therefore, for the High Commissioner to conclude that "a human rights presence" is to be established and that negotiations on its mandate are currently under way is to misconstrue the facts.

The memorandum of understanding on technical cooperation and advisory services in the field of human rights

10. As has been clearly demonstrated, the Government of Indonesia has agreed to upgrade the memorandum of intent between the High Commissioner for Human Rights/Centre for Human Rights and the Government of the Republic of Indonesia on the mutual agreement to cooperate in the development and implementation of coherent and comprehensive national programmes for the promotion and protection of human rights in Indonesia, signed on 26 October 1994 pursuant

to the result of the Second National Workshop on Human Rights, to a more practical memorandum of understanding or agreement in the field of technical cooperation and advisory services. Technical cooperation and advisory services are recognized as clearly distinct from the monitoring activities normally carried out by a "human rights presence" or "field operation".

Cooperation with human rights mechanisms

11. The Government of Indonesia remains fully committed to cooperating with the relevant thematic special rapporteurs and/or working groups of the Commission on Human Rights, and to inviting them, taking into consideration their requests, to visit Indonesia when necessary and if warranted by the discharge of their duties. Imbued with the spirit of cooperation, the Government of Indonesia has always tried to do its utmost to provide due responses to almost all communications concerning cases in Indonesia transmitted under the human rights special procedures.

Linkage between the human rights situation and a political resolution

12. Any attempt to link the human rights situation with, and make it a prerequisite of, the resolution of the political question is considered both tenuous and indefensible and therefore the Government of Indonesia feels compelled to reject it. During an interview with CNN on 6 December 1995, the High Commissioner clearly stated that "I came as High Commissioner for Human Rights to deal exclusively with issues related to human rights. Consequently, I am not going to deal or to make any kind of declarations regarding issues which are not within my mandate."